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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,604	09/26/2003	Tetsuro Motoyama	240204US28	1499

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EXAMINER
SIKRI, ANISH

ART UNIT	PAPER NUMBER
2143	

NOTIFICATION DATE	DELIVERY MODE
06/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 April 2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-36</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-36</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>01 August 2007</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
            application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>10/29/07</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 10/29/07, has been

considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating
   obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1-3, 5-15, 17-27, 29-36 are rejected under 35 U.S.C. 103 (a), as being

unpatentable over Babu et al (US Pat 6,122,639).

From here within Babu et al will be referred to as Babu

Consider Claim 1, Babu disclosed the method of storing information configured to

be used for a plurality of communication protocols (Babu, Col 6 Lines 34-40, Babu

disclosed the multiple protocols used on the network) to access a monitored device by a

monitoring computer among distinct devices communicatively coupled to a network

(Babu, Col 2 Lines 62-67, Col 3 Lines 1-4, Babu disclosed on devices in the network are

monitored, and how information from the devices is collected), retrieving by the

monitoring computer, information for accessing the monitored device using at least one

communication protocol supported by the monitored device (Babu, Col 7 Lines 35-37,

Babu shows on how SNMP protocol is supported); storing by the monitoring computer,

the information for accessing the monitored device (Babu, Col 7 Lines 10-19, Babu

disclosed on how information is collected and stored from the devices which are being

monitored by the monitoring system), selecting by the monitoring computer a communication protocol among the plurality of communication protocols, the monitored device being configured to process two or more of the plurality of communication protocols (Babu, Col 6 Lines 34-40, Babu disclosed multiple protocols used on the network) and directly accessing the monitored device using the selected communication protocol and the information retrieved from and stored by the monitoring computer (Babu, Col 2 Lines 62-67, Col 3 Lines 1-10).

But Babu does not explicitly state the use of first memory of the device, and the second memory of the monitoring system.

Babu does disclose the use of memories in the management system (Babu, Col 6 Lines 53-64) and the monitored devices/clients (Babu, Col 6 Lines 48-50).

It would be obvious to a person skilled in the art to that monitoring device has a memory, which can be interpreted by local persistent storage, which contains device information (Babu, Col 6 Lines 48-50), and second memory can be interpreted as database system which is connected to the collection engine or the collection engine as itself (Babu, Col 6 Lines 53-64)

Therefore it would have been obvious to person skill in the art at the time of the invention to incorporate the use of first and second memories in the network management system and the monitored devices/systems, taught in the system of Babu.

Consider Claim 2, Babu disclosed the method of claim 1, wherein the retrieving step comprises: accessing a memory external (Babu, Col 6 Lines 53-64) to a monitoring

computer to obtain the information for accessing the monitored device (Babu, Fig 1, Col 2 Lines 62-67, Col 3 Lines 1-4, Babu disclosed on devices in the network are monitored, and how information from the devices is collected).

Consider Claim 3, Babu disclosed method of claim 1, wherein the selecting step comprises: selecting a communication protocol among SNMP, HTTP, and FTP (Babu, Col 7 Lines 35-37, Babu shows on how SNMP protocol is supported).

Consider Claim 5, Babu disclosed the method of claim 1, wherein the retrieving step comprises: retrieving, from the first memory (Babu, Col 6 Lines 48-50), at least one of a community name and a password for accessing the monitored device using SNMP (Babu, Col 7 Lines 65-67, Col 8 Lines 1-7).

Consider Claim 6, Babu disclosed the method of claim 1, wherein the retrieving step comprises: retrieving, from the first memory (Babu, Col 7 Lines 65-67, Col 8 Lines 1-7, Babu disclosed on how the information is retrieved from the device),

Babu does not explicitly state on obtaining an IP address of the monitored device.

But, Babu disclosed that it gathers information from many different network devices, including hardware and software information (Babu, Col 13 Lines 14-20, Col 16 Table 5 and 6).

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of obtaining IP addresses from the monitored devices by the network management system, taught by Babu.

Consider Claim 7, Babu disclosed the method of claim 1, wherein the second memory comprises a vector of parameter name and parameter value pairs for each of the plurality of communication protocols (Babu, Col 11 Lines 60-63, Babu disclosed that MIB object is a vector object, as MIB object sets contain values of the devices).

Consider Claim 8, Babu disclosed the method of claim 1, wherein the storing step comprises: storing the information for accessing the monitored device in a device software object associated with the monitored device (Babu, Col 13 Lines 14-20, Babu disclosed that it does retrieve software related information from the devices).

Consider Claim 9, Babu disclosed the method of claim 8, wherein the device software object is stored in a random-access memory unit of the monitoring computer (Babu, Col 6 Lines 53-64, Babu disclosed the use of memory).

Consider Claim 10, Babu disclosed the method of claim 1, wherein the retrieving step comprises: accessing the first memory using virtual functions associated with an abstract software class (Babu, Col 5 Lines 38-44).

Consider Claim 11, Babu disclosed the method of claim 1, wherein the accessing step comprises: transmitting to the monitored device (Babu, Col 7 Lines 35-40), information stored in the second memory necessary to access the monitored device using the selected communication protocol (Babu, Col 8, Lines 25-33, Babu disclosed on how the device is identified by comparing the information stored at the collection engine, and the information stored on the device).

Consider Claim 12, Babu disclosed the method of claim 11, wherein the accessing step comprises: receiving, by the monitored device (Babu, Col 7 Lines 35-40), the transmitted information; and processing, by the monitored device, the received information (Babu, Col 8, Lines 25-33, Babu disclosed on how the device is identified by comparing the information stored at the collection engine, and the information stored on the device).

Claims 4, 16, and 28 are rejected under 35 U.S.C. 103 (a), as being
unpatentable over Babu et al (US Pat 6,122,639), in view of Brunemann et al (US Pat
6,487,717).

Consider Claim 4, Babu disclosed the method of claim 1, wherein the retrieving
step comprises: retrieving information, from the first memory of the monitored device
(Babu, Col 7 Lines 65-67, Col 8 Lines 1-7, Babu disclosed on how the information is
retrieved from the device)

But Babu does not explicitly state the use of least one of a username and a
password for accessing the monitored device using FTP.

Nonetheless, Brunemann et al disclosed on the use of least one of a username
and a password (Brunemann et al, Col 7 Lines 14-16) for accessing the monitored
device using FTP (Brunemann et al, Col 6 Lines 8-16).

Both Babu and Brunemann et al provide features related to communication in the
network with the use of network management system monitoring devices/systems.
Therefore one of ordinary skill in the art would have been motivated to combine the
teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the art at the time of
the invention was made to incorporate the use of network management systems using
FTP access to the devices/systems/clients to access and retrieve information from
them, taught by Brunemann et al, in the system of Babu for the purpose of monitoring of
systems/devices in the network.

Claims 13-24, have similar limitations as to claims 1-12 respectively; therefore they are rejected under the same rational as claims 1-12 respectively.

Claims 25-36, have similar limitations as to claims 1-12 respectively; therefore they are rejected under the same rational as claims 1-12 respectively.

Response to Arguments

Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ANISH SIKRI whose telephone number is 5712701783.

The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

June 16, 2008

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154